



COMMISSIONER  
James R. Hine

September 24, 2004

To: Emergency Response Services (ERS) Provider Agencies

Subject: Long Term Care (LTC)  
Information Letter No. 04-13  
License Requirements to Provide Emergency Response Services (ERS)

Effective February 1, 2004, all of the functions and activities performed by the Texas Commission on Private Security (TCPS) were transferred to the Texas Private Security Board of the Texas Department of Public Safety (DPS) or the Texas Department of State Health Services (DSHS) formerly the Texas Department of Health (TDH). A reference to TCPS in law or rule relating to those transferred functions or activities is a reference to the Texas Private Security Board or DSHS, as applicable, until the reference is amended or replaced by subsequent law or rule. Rules for the Texas Private Security Board (formerly TCPS) are currently located at 22 Texas Administrative Code (TAC), Part 20, Chapters 421-449.

The law outlining licensure requirements for the installation and/or monitoring of alarm systems can be found at the Texas Occupations Code, Chapter 1702. DSHS will be administering the provisions of Chapter 1702 that are applicable to Personal Emergency Response Services (PERS) as defined in §1702.006. Any TCPS form relating to PERS providers remains in effect until amended or replaced by DSHS.

The Texas Private Security Board and DSHS require that an entity obtain and maintain a security services contractor license to install or monitor alarm systems, unless that entity is exempted by law. This information letter is to provide clarification on licensing requirements for Emergency Response Services (ERS) providers.

The following entities are exempt from the license requirements for providing installation or monitoring of alarm systems in the State of Texas, if the specified criteria are met:

- Hospitals and Affiliates of Hospitals;
- Charitable Non-Profit Organizations; and
- Political Subdivisions.

### **Hospitals and Affiliates of Hospitals**

A hospital, a wholly owned subsidiary or an affiliate of a hospital (an example would be a hospital that operates an outpatient clinic or a hospital that has an affiliation with a medical school) licensed under Chapter 241 of the Health and Safety Code is exempt from obtaining a security services license for installation and monitoring of alarm systems if it:

- Provides medical alert services for persons who are sick or disabled and it does not provide any other services that require a license under Texas Occupations Code, Chapter 1702.

### **Charitable Non-Profit Organizations**

A charitable non-profit organization that provides medical alert services for persons who are sick or disabled and does not provide any other services that require a license under Texas Occupations Code, Chapter 1702 will be exempt if all of the following apply:

- The entity is exempt from the payment of federal income taxes under 501(a) of the Internal Revenue Code of 1986;
- The entity is classified by IRS as an exempt agency under 501(c)(3), non-profit corporation; **and**
- The entity provides the installation and monitoring of alarm systems through a:
  - Licensed person,
  - Licensed nurse,
  - Licensed physician,
  - Hospital licensed under Chapter 241 of the Texas Health and Safety Code including a subsidiary of a hospital and an affiliate of a hospital.

### **Political Subdivisions**

A political subdivision may: (1) install and/or monitor alarm systems owned by the political subdivision or another political subdivision; (2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity; (3) offer to monitor in connection with a criminal investigation; or (4) offer monitoring to a financial institution.

Otherwise, a political subdivision may provide installation and monitoring of alarm systems only if the following applies:

- The political subdivision was licensed to provide monitoring of residences within the boundaries of the political subdivision on or before September 1999;
- The political subdivision is in a county with a population of 80,000 or less; and or

- Monitoring is not otherwise provided or available in all or part of the political subdivision.

You should be aware of some additional facts.

### **Subcontracting**

Some ERS provider agencies subcontract for the installation and/or monitoring of alarm systems. The primary contractor, as well as the subcontractor, is required to maintain appropriate licensure for the installation and monitoring of alarm systems.

### **Out-of-State Entities**

Out-of-state entities that provide installation/monitoring of alarm systems within the State of Texas are required to be licensed unless the entity meets exceptions in Texas Occupations Code, Chapter 1702.

### **Penalty for Operating an Unlicensed Alarm Company**

Operating an unlicensed alarm company is a violation of Texas Occupations Code, §1702.388 and is a Class A misdemeanor. The offense is a felony of the third degree if the person has previously been convicted under Texas Occupations Code, Chapter 1702 for failing to hold a license, registration, certificate or commission.

If you have any questions or would like to request additional information regarding Personal Emergency Response Services, you may contact the PERS Provider Licensing Program, DSHS Professional Licensing and Certification Division, at (512) 834-6602. You may also find more information at: <http://www.tdh.state.tx.us/hcqs/plc/pers.htm>

Contract managers will be notifying ERS providers for whom they do not have a current license to submit Form 2341, Emergency Response Services Application for Participation, and a copy of a current license or documentation to support exemption from licensure requirements.

Please contact your contract manager if you have any question regarding this information letter. Contract managers may contact Norma Ortiz at (512) 438-3136.

Sincerely,

[signature on file]

Barry Waller  
Assistant Commissioner Provider Services

BCW:ch